In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 2465 of 2004

Date of Decision: 28.11.2006

Arjun Dass and others

…Petitioners

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. Manoj Chahal, Advocate,
for the petitioners.
Mr. Girish Agnihotri, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J

In the instant petition filed under Article 226 of the Constitution the prayer made by the petitioners is for issuance of a writ in the nature of mandamus directing the respondents to count the service rendered by the petitioners on work charge basis for all intent and purposes and grant him all the consequential benefits accruing therefrom. The details with regard to date of joining, date of

regularization and date of retirement in respect of the petitioners have been given in para 2 of the writ petition. On 8.12.2003 (P-3) the petitioners have also served a legal notice.

The matter is not res-integra as the issue raised in the instant petition has already been settled by this Court in the case of **Dharam Pal v. The Superintending Engineer, Operation Circle UNBVNL, Karnal and another** (CWP No. 1150 of 2005, decided on 21.11.2006). In that case reliance has been placed on a Full Bench judgment of this Court in the case of **Kesar Chand v. State of Punjab, 1988 (2) PLR 223** and two Division Bench judgments in the cases of **Hazura Singh v. State of Punjab, 2004 (1) SCT 695** and **Mangat Ram v. Haryana Vidyut Prasaran Nigam Ltd., 2005 (4) SCT 302**. Then the question regarding giving of option in terms of circular dated 6.8.1993 has also been considered in the light of two Division Bench judgments in the cases of **Dilwar Singh v. Haryana Power General Corporation Limited, 2006 (3) SCT 412** and **Ram Kumar v. Uttar Hartyana Bijli Vitran Nigam Limited, 2006 (3) SCT 628**.

On principle, precedents as well as the rules, the claim of the petitioners deserves to be accepted. Accordingly, we allow the writ petition. The petitioners are held entitled to computation of the work charged service as qualifying service. The employer's contribution in the provident fund drawn by the petitioners shall be adjusted and set off from the arrears which may become payable after the afore-mentioned computation. The respondents shall undertake

the exercise of computation of arrears and complete the same within a period of two months from the date a certified copy of this order is supplied to them. The petitioners shall also be entitled to interest on the arrears after setting off employer's contribution from provident fund @ 8 percent per annum from the date the arrears were payable till the date of payment. However, the arrears resulting from re-calculation of pay/pension after adding the aforementioned period of ad hoc service shall be confined only to three years two months preceding the date of filing of the writ petition, which is 12.2.2004.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

28.11.2006
Pkapoor